IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 45 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME TAX

Versus

SAVITABEN N AMIN

Appearance:

1. INCOME TAX REFERENCE No. 45 of 1986

MR BB NAYAK FOR MR RP BHATT for Applicant.

MR JP SHAH for Respondent.

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 10/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the revenue, the following two questions have been referred to this Court under the provisions of section 256(1) of the Income-tax Act,1961 for its opinion :

"1 Whether, on the facts and circumstances and when the assessee is provided with a car by one of the employers, the standard deduction is not to be restricted to as Rs.1,000/-?

2 Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in coming to the conclusion that the amount expended by employer Bharat Linders Pvt.Ltd. for purchasing the deferred life annuity policy for the assessee was not liable to tax u/s. 17(2)(v) the Income-tax Act,1961?"

2. Learned Advocate Mr.B.B.Nayak has appeared for the revenue whereas no body has appeared for the assessee though served.

So far as the first question is concerned, in our opinion, the said question does not arise because upon perusal of para 3 of the order passed by the Tribunal, it is very clear that the Tribunal has given certain directions to the Assessing Officer to recalculate the standard deduction. It is pertinent to note that being aggrieved by the order passed by the Commissioner, Income-Tax (Appeals), the Revenue had approached the Tribunal by filing an appeal and the appeal was allowed. So far as the question with regard to computation of standard deduction is concerned the Tribunal has remanded the matter to the Assessing Officer. In the circumstances, in our opinion, no question of law arises so far as the first question is concerned, and therefore, we decline to answer the said question.

3. So far as the second question is concerned, learned Advocate Mr.Nayak has drawn our attention to the judgement delivered in the case of Commissioner of Income-tax Vs. Smt.Savitaben N.Amin in Income Tax Reference No.158 of 1982 decided by this Court on 25/1/1994. The law laid down by this Court in the said Reference squarely answers the second question. Looking to the law laid down by this Court in the said Reference we answer the second question in the affirmative i.e. in

favour of the assessee and against the revenue.

4. The Reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt